

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK**

---

CCL LABEL, INC.,

Plaintiff,

v.

Case No. 1:15-cv-00378-RJA

LASER BAND LLC ET AL.,

Defendants.

---

**CCL Label's Notice of Motion to Dismiss, in Part, Defendants' Counterclaim**

PLEASE TAKE NOTICE that CCL Label, Inc. will move this Court at the United States Courthouse, 2 Niagara Square, Buffalo, New York, at a date and time to be determined by the Court, for an Order, under Rule 12(b)(6) of the Federal Rules of Civil Procedure, dismissing Counts 1, 2, and 3 of defendants' counterclaim (ECF # 10) for failure to state a claim. More specifically, those three counts are deficient because they seek declaratory judgments of patent invalidity without meeting the basic pleading standard required to state such a claim. Each claim fails to include *any* factual allegation that would support an invalidity defense, and each claim fails to identify the specific statutory ground on which defendants base their invalidity challenges.

The grounds for this motion are more fully set forth in the memorandum, which CCL is filing with this motion. Further, in accordance with Local Rule 7(a)(1), CCL states its intent to file a reply to any opposition to this motion by defendants.

Respectfully submitted,

Dated: October 19, 2015

s/ Matthew J. Cavanagh  
Matthew J. Cavanagh  
MCDONALD HOPKINS LLC  
600 Superior Ave., East, Ste. 2100  
Cleveland, Ohio 44114  
t 216.348.5730 | f 216.348.5474  
mcavanagh@mcdonaldhopkins.com

*Counsel for CCL Label, Inc.*